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## Poland*

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# I. Land and people

1. The Republic of Poland is a State in Central Europe on the Baltic Sea. It borders the Russian Federation, Lithuania, Belarus, Ukraine, Slovakia, the Czech Republic and Germany. The length of its frontier is 3,511 km, including a 440 km maritime border and 1,295 km of borders along rivers. In area it is 312,679 $km^2$, the ninth largest country in Europe.

2. At the end of 2013, the population of Poland accounted for 38.5 million. The official language is Polish. The monetary unit is the zloty (PLN).

3. The national holidays are 3 May — Constitution Day (commemorating the promulgation of the Constitution of 1791) and 11 November — Independence Day (commemorating the regaining of independence in 1918).

4. The country is divided administratively into 16 voivodeships.

5. The State emblem is the image of a white eagle wearing a crown with its head turned to the right with gold beak and talons, set against a red rectangular shield tapering to a point at the bottom. The national colours are white and red in two horizontal parallel bands, of which the top is white and the bottom is red.

6. Poland is a lowland country: areas not exceeding 300 metres above sea level account for 91.3 per cent of its area (depressions constitute 0.2 per cent); the average altitude is 173 m (Europe — 330 m). The highest point is Mount Rysy in the High Tatras (2,499 m), the lowest 1.8 m below sea level. Poland's surface is inclined from the south to the north-east.

7. Poland is rich in natural resources. More than 70 different minerals are mined, 40 of them are of key importance to the economy (hard coal accounts for 40 per cent, sand and gravel 35 per cent, and lignite and limestone 8 per cent each). Hard coal is the most important fuel, and lignite is the second important source of energy. Of the chemicals, raw sulphur and rock salt play a basic role, and of the metals copper, zinc and lead are the most abundant deposits in Poland.

8. Poland's climate is marked by rapid weather changes and great variability of the seasons in recent years. According to the Koppen-Geiger classification, the border separating the warm and rainy temperate climate from the boreal, snow and forest climate runs through Poland. Owing to Poland's physical traits and geographic location, various air masses interact above it, influencing its weather and, as a result, its climate.

9. The National Census of Population and Housing 2011 estimated the total population of Poland at 38,511,824 people, 19,867,954 (51.6%) of which were women and 18,643,870 (48.4%) were men. In 2011, 38,445,564 inhabitants held Polish citizenship, 55,436 people declared other citizenship and for 8,805 persons the citizenship has not been determined.

10. According to the National Census of Population and Housing of 2011, Poland is ethnically rather a homogenous country. The most numerous minorities among Polish citizens are Germans (144,236), Belarusians (43,878) and Ukrainians (38,795). Other minorities are the Roma (16,723), Russians (8,796), Lemkos (9,640), Lithuanians (7,376), Slovaks (2,739), Jews (7,353), Armenians (1,683), Czechs (2,831), Tatars (1,828) and Karaims (314). Additionally, 108,140 respondents (Pomorskie Voivodeship) declared using the Kashubian language (regional language in Poland).

11. National and ethnic minorities are most concentrated in the Opolskie, Podlaskie and Śląskie Voivodeships.

12. The Census also proved that about 98.2% of population of Poland speak Polish and for 96.2% it is the only language spoken at home. Only 2.46% respondents declared using languages other than Polish in family contacts. Most of them (i.e. 2.0%) admitted using other language in parallel with Polish and only 0.46% declared using only languages other than Polish at home. Over 160 languages and dialects can be found in Poland and only twenty-three of them are used by more than one thousand people.

13. In the 1990s, a steady decrease in the natural increase and birth rate was reported. Between 2002 and 2005, a negative natural increase was observed, particularly in 2003, when the number of deaths exceeded the number of births by 14 thousand (14.158). Since 2006 the natural increase has been positive again and the birth rate is on the increase. The natural increase (per 1.000) decreased from +4.1 in 1990 to -0.4 in 2003. In the years 2008-2010 it remained at the level of +0.9 ‰. In succeeding years natural increase plummeted and in 2012 reached 0 ‰. In 2013 natural increase was again negative (-0.5 ‰).

14. Since 1992, the average life expectancy for men and women in Poland has been systematically increasing. By 2001, life expectancy grew by 3.7 years for men and by 2.9 years for women. In subsequent years this progress was slower and in 2013 life expectancy was 81.1 for women and 73.1 for men.

15. A considerable progress has been made in combating infant mortality. The number of infant deaths per 1.000 live births dropped from 19.3 in 1990 to 8.1 in 2000 and 4.6 in 2012.

## II. Economy

16. Since the early 1990s, the Polish economy has undergone profound changes which led to the transition from centralized system to market economy. The ambitious economic reforms focused on reducing the size of the public sector and opening the economy to external competition. As the economic transformation has progressed the commodity structure and geographic pattern of Polish foreign trade has changed towards an increase in the proportion of highly processed goods and a greater role of trade with European Union (EU) countries. As a result of the integration and globalisation processes the Polish economy became an integral part of the world economic system.

17. The success of the economic transition paved the way for the EU accession in 2004. This not only enabled Poland to participate in the EU legislative and decision-making process but also facilitated wider access to the European common market. Moreover, EU membership brought about an improvement in the perception and trustworthiness of Poland among international investors. This helped to attract foreign direct investment which enhanced the production capacity of the economy. Poland has benefited from the EU structural transfers, as well, with the major part used to fund infrastructure and human capital projects.

18. With real GDP growth at 1.6 percent Poland was the only EU economy to have escaped a recession in 2009. Sound economic fundamentals and forceful policy responses have helped Poland to weather the global financial crisis better than other Central and Eastern European countries. In spite of marked decline in investments and industrial production, consumption held up relatively well and the foreign balance began to contribute positively to growth from the onset of the crisis. Economic slowdown in Poland turned out to be short-lived. After a rebound in 2010, growth accelerated to 4.5% in 2011. However, the deterioration of the economic situation in Poland's external environment has translated into a slowdown in economic activity in 2012–2013. Weaker exports growth has taken its toll on domestic demand through its adverse effect on investments in the market sector and labour market. Ongoing fiscal consolidation resulted in public consumption stagnation

along with decrease in the general government investments. Simultaneously, adverse confidence effects combined with falling real wage growth and rising unemployment contributed to the slowdown in household consumption. This was compounded by tighter lending conditions imposed by banks. As a result, 2012 brought a slight contraction in domestic demand and an accompanying decline in imports. On account of higher dynamics of exports than imports, GDP growth (2.0%) was backed by a large contribution of net exports. The GDP grew by 1.6% in 2013, supported by resilient exports while consumption and investments dynamics remained low. Economic growth is expected to recover gradually on the back of improving domestic demand and higher growth on Polish main exports markets, but the economy is still subject to external risks as Poland is highly integrated with Europe through trade and financial channels, as well as with global financial markets.

19. As a consequence of high, in comparison to other EU countries, cumulative GDP growth Poland was the fastest catching up economy in the EU in terms of average EU income measured by GDP per capita (in purchasing power standards — PPS). In the case of Poland this index grew from 54 percent in 2007 to 68 percent of the EU average in 2013, which means that the distance to the EU average was reduced by more than 1/4 in this period.

20. The situation on the Polish labour market was mainly shaped by the cyclical developments of the economy. During the global economic crisis, the Polish labour market performed relatively well in comparison to other EU countries. Employment[1] had been rising till 2012 and only in 2013 it decreased slightly for the first time since 2002. Despite the growing labour demand, the number of unemployed grew and the registered unemployment rate went up from 9.5% at the end of 2008 to 13.4% at the end of 2013, while the unemployment rate according to the Labour Force Survey (LFS)[2] increased from 7.1% in 2008 to 10.3% in 2013. However, the increase in the unemployment rate in Poland was lower than in the EU on average. The increase in the unemployment rate in Poland — accompanied by the growing labour demand — resulted from the growth in the participation rate, which was mainly caused by a rise in the participation rate among the elderly (over 54 years old). Regardless of these positive developments, the participation rate in Poland is still one of the lowest among the EU countries.

21. The Polish economy is closely integrated with European and other global markets. About 75% of Polish exports go to other EU countries, and nearly 60% of goods and services are imported from the EU. Almost 90% of foreign direct investment in Poland comes from EU countries as well. In the recent years, in spite of a more challenging external environment, export dynamics remained stronger than the activity on the main Polish export markets. Exporters profited also from expansion towards Central and Eastern European as well as other developing countries. This stemmed from high price competitiveness of Polish products supported by a relatively favourable real effective exchange rate of the zloty.

22. The structure of GDP growth with the weak domestic demand allowed for improvement in external and internal imbalances. Current account deficit narrowed considerably to 3.7% of GDP in 2012 and declined further to 1.4% of GDP in 2013 from 5.0% of GDP in 2011. The main driver of the overall external imbalance was the negative income component, reflecting mainly foreign direct investors' income, yet, with increased importance of non-residents income from portfolio investments. External imbalance was safely financed by net FDI inflow and capital account surplus (mainly EU structural funds

[1] LFS, 15 years and more.
[2] LFS, 15 years and more.

inflow). Along with rising negative output gap, inflation fell sharply, well below the lower band of the central bank's target range. In 2013 consumer prices grew on average by only 0.9%.

**Selected macroeconomic indicators**

| | *2009* | *2010* | *2011* | *2012* | *2013* |
|---|---|---|---|---|---|
| GDP (real growth, in percent) | 1.6 | 3.9 | 4.5 | 2.0 | 1.6 |
| Consumption (real growth, in percent) | 2.0 | 3.4 | 1.6 | 1.0 | 1.2 |
| Gross fixed capital formation (real growth, in percent) | -1.2 | -0.4 | 8.5 | -1.6 | -0.2 |
| CPI (annual average, in percent) | 3.5 | 2.6 | 4.3 | 3.7 | 0.9 |
| Unemployment rate (Eurostat definition, in percent) | 8.2 | 9.6 | 9.6 | 10.1 | 10.3 |
| Current Account Balance (in percent of GDP) | -3.9 | -5.1 | -5.0 | -3.7 | -1.4 |

*Source*: GUS, ESA'95 methodology, Eurostat, NBP.

**Selected data on labour market (people aged 15-64)**

| | *4Q 2010* | *4Q 2011* | *4Q 2012* | *4Q 2013* |
|---|---|---|---|---|
| Economically active population (thousand) | 17,153 | 17,295 | 17,394 | 17,453 |
| Participation rate (%) | 65.4 | 66.1 | 66.8 | 67.4 |
| Unemployment rate (%) | 9.4 | 9.9 | 10.2 | 9.9 |

*Source*: Labour Force Survey (LFS).

**Labour Fund expenditures (mln zl)**

| | *2011* | *2012* | *2013* |
|---|---|---|---|
| **Total** | **8,751.4** | **9,641.3** | **11,325.2** |
| Unemployment benefits and other benefits | 4,796.2 | 5,316.7 | 5,958.0 |
| Total active measures for combating unemployment | 3,327.6 | 3,889.7 | 4,633.0 |

*Source*: Labour Force Survey (LFS).

# III. Reforms

## A. Administrative reform

23. Over the years 1990–2002, the reform of the system of public administration was implemented in Poland. The reform introduced a system of local self-governments in accordance with the Constitution of the Republic of Poland and also with the European Charter of Local Self-Government adopted by the Council of Europe in 1985 and ratified by Poland in 1994. Three tiers of local self-government were established:

- *Gmina* — the basic unit of local self-government, responsible for all public affairs of local significance, which are not reserved for other entities and authorities by law;
- *Poviat* — responsible for all local affairs beyond the competence of gmina;
- *Voivodeship* — responsible for the implementation of regional policies and tasks related to a range of poviats that do not fall within the competence of central

authorities and which do not cover the entire country. The character and implementation of these tasks are a major challenge for Poland in the 21st century.

24. As a result of decentralisation of power, many tasks and competences were transferred from the central level to voivodeships, and from the voivodeship level to poviats and gminas, thus allowing the central authorities to focus on strategic issues. If the territorial organisation of the state and the structures of local self-governments are adjusted to the EU standards, it will become possible to apply legal and economic instruments developed by the EU, especially those relating to the regional and local development and regional cooperation.

## B. Social reform

25. From 1 January 1999, Poland has begun implementing two major social reforms: the reform of the health-care system and social security reform.

### 1. Health-care reform

26. The Polish health care system is mainly regulated by the Act of 27 August 2004 on health-care services financed from public funds. The Act regulates the fields of health- care services financed from public funds. Pursuant to its Article 2, the insured, and members of their families, are entitled to receive services guaranteed by law. Furthermore, there is a possibility of the voluntary insurance in the universal health insurance system. Additionally, not only the insured, but also Polish citizens who are not insured but who live in Poland and meet the requirements specified in the Act of 12 March 2004 on social assistance (the beneficiaries) as well as those who do not meet the above-mentioned requirements but are less than eighteen years old (the condition of residence in the territory of the Republic of Poland is not required), in pregnancy, labour or the postnatal period are entitled to be provided with such services.

27. The other groups of people (mentally ill people, people with infectious diseases, persons addicted to alcohol and drugs) are also eligible (independently from any entitlements to health insurance) for health care services financed from public funds.

28. These categories of persons are entitled to receive the health care services financed from public funds. The insured are entitled to receive services financed by the National Health Fund, while the other categories of beneficiaries are entitled to receive services financed by the central budget.

29. At present, the key institution in Poland to finance the health care services for the insured is the National Health Fund. The Polish health care system is mostly based upon the health insurance scheme. The National Health Fund is the only external payer in the Polish health insurance scheme. The Fund and its regional branches provide health-care services based on contracts with providers of health services. The people under compulsory coverage (i.e. the employed, self-employed, those receiving unemployment benefits, pensioners, soldiers, civil servants, etc.) pay insurance contributions as a percentage of their income. The people voluntarily insured in the National Health Fund also pay insurance contributions as a percentage of the sum of the declared monthly income, however not lower than the amount equal to average remuneration.

30. The Polish health insurance scheme is based on the principle of universal access, equal treatment, social solidarity, equal access to health services and free choice of health care provider.

31. The entitled persons have the right to receive the health care and prevention services. They receive, among others, the following benefits and services: diagnostic

examinations, primary health care, specialized care, dental care, hospital treatment, highly-specialised services, medical life-saving services. They are also entitled to partial reimbursement of costs of medicines, medical products and devices. The benefits and services guaranteed by the health care system (so-called service packages) are specified by the Minister of Health.

32. The main act regulating the health care institutions is the Act of 15 April 2011 on medical activity. Individual and group medical practice is regulated by the Act of 5 December of 1996 on the professions of physician and dentist (amended in 2011) and the Act of 15 July 2011 on the professions of nurse and midwife. All the entities providing health services have to be registered in the register of entities performing medical activity. As regards health-care providers, the authority keeping the relevant register is the Voivode competent for the registered office or the place of residence of the providers; as regards medical practice, it is the district medical council competent for the place of performing medical practice by a physician; while for nursing/midwifery professionals, it is the district council of nurses and midwives competent for the place of performing the professional practice by a nurse/midwife.

33. The 2011 Act on medical activity maintains the term of "independent public health care provider" (Polish acronym: SPZOZ) which is a therapeutic entity owned by a public body (government, local government, medical university). Pursuant to the Act, health services can be provided by the following entities, according to the principle of equal access to public funds: private enterprises, SPZOZ, budget entities, scientific institutes, foundations and associations, churches and unions, as well as individual persons under individual and group medical practices.

### 2. Social-security reform

34. On 13 October 1998 and on 17 December 1998, the Sejm adopted the Act on the social insurance system and the Act on retirement and disability pensions paid from the Social Insurance Fund. On 28 August 1997, the Sejm adopted the Resolution on the organisation and operation of pension funds. These acts reformed the previous social welfare system. They ensure the following forms of social insurance: retirement and disability pensions, survivor pensions, sickness benefits and maternal benefits, as well as benefits related to accidents at work and occupational diseases.

35. Between 2007 and 2011 numerous changes were introduced in the area of social insurance. Three of them are of major importance. In January 2009 the so-called bridging pensions were introduced to replace the system of early retirement. The objective was to narrow the group of persons entitled to early retirement and, as a result, to raise effective retirement age in the context of a deteriorating demographic situation. Another temporary solution introduced in January 2009 are founded old-age pensions from open pension funds (privately managed second pillar) for persons born after December 31, 1948 and who entered the second pillar; these pensions are paid until they reach the retirement age. These benefits are combined with old-age pensions from the Social Insurance Fund (first pillar). In May 2011 the part of old-age pension contributions transferred from the Social Insurance Fund to open pension funds was limited to reduce the burden for public finance caused by the funded component of the pension system.

36. Further changes in the social security system have been implemented since 2011. One of the most important reforms (launched in January 2013) is equalizing the retirement age of men and women and its gradual raising. Retirement age will be 67 for men in 2020 and for women in 2040. Another new solution is the extended maternity leave introduced in June 2013, which is expected to help to improve the fertility rate in Poland. Another major change introduced in the beginning of 2014 were the determination of the principles of the payout phase from the second pillar of the old-age pension system and making participation

in open pension funds voluntary, as well as several other changes in functioning of these funds, aimed at improving the performance of the second pillar.

# IV. Political system

37. In the Republic of Poland, the Constitution is the supreme law of the state. Its provisions are applied directly unless otherwise stipulated (art. 8). The fundamental principle governing the State is expressed in Article 10, which states that "The system of government of the Republic of Poland shall be based on the separation of and balance between the legislative, executive and judicial powers. Legislative power shall be vested in the Sejm and the Senate, executive power shall be vested in the President of the Republic of Poland and the Council of Ministers, and the judicial power shall be vested in courts and tribunals."

## A. Legislative authority

38. The competence of the Sejm, as stipulated by the Constitution, may be divided into four categories:

- Legislative function;
- Formative function (Sejm designates members of the State Tribunal and Constitutional Tribunal and it passes the confidence vote on the Council of Ministers designated by the President);
- Scrutiny function (the Sejm supervises the Council of Ministers' activities to the extent specified by the Constitution and legislation of the Parliament; it includes reviewing government reports on implementation of the State budget and designating investigative commissions);
- Political and constitutional function (non-confidence vote for the Government or particular ministers, lodging complaints with the State Tribunal against government officials, voting together with the Senate as the National Assembly to indict the President before the State Tribunal).

39. Other prerogatives of the Sejm include deciding on a state of war or concluding peace treaties. The Senate has the right to enact laws and adopt resolutions. The Constitution does not delegate any supervisory power to the Senate.

## B. Executive authority

40. Executive authority is exercised by the President and the Council of Ministers. Pursuant to Article 126 of the Constitution, "the President of the Republic of Poland shall be the supreme representative of the Republic of Poland and the guarantor of the continuity of State authority. The President of the Republic shall ensure observance of the Constitution, safeguard the sovereignty and security of the State as well as the inviolability and integrity of its territory."

41. The Constitution of the Republic of Poland puts emphasis on the following presidential powers:

- Powers of the Head of State in internal and external affairs, in his command of the Armed Forces and in the defence and security of the State in times of peace and war;

- The authority to balance powers with regard to the Sejm and Senate, the Council of Ministers and the judiciary;
- Creative and organisational authority in the area of State leadership.

42. The President first and foremost: ratifies and renounces international agreements (before their ratification the President has the right to consult the Constitutional Tribunal over their conformity with the Constitution); appoints and recalls plenipotentiary representatives of Poland to other States and international organizations, receives the credentials and letters of recall of accredited diplomatic representatives of other States; cooperates with the Prime Minister and the competent minister in formulating foreign policy; serves as the supreme commander of the Armed Forces; grants pardons; grants Polish citizenship and consents to the renunciation of that citizenship; issues official acts (decrees and orders which require the signature of the Prime Minister to be valid unless otherwise stipulated by the Constitution); upon a motion by the Prime Minister effects personnel changes in the Government; announces elections to the Sejm and Senate; enjoys legislative initiative; signs bills into law; submits motions to the Constitutional Tribunal and — for the purpose of carrying out audits — to the Supreme Audit Office; designates and appoints the Prime Minister and accepts his resignation; accepts the resignation of the Cabinet; recalls ministers on whom the Sejm has passed a no-confidence vote; upon a motion by the National Council of the Judiciary appoints the First President and other judges of the Supreme Court, the head of the Supreme Administrative Court and his deputies and appoints the President of the Constitutional Tribunal.

43. The President is elected for a five-year term (and may be re-elected only once) by general election in equal, direct and secret voting.

44. For a violation of the Constitution or the law or the commission of a crime, the President may be held accountable by the State Tribunal.

45. The Council of Ministers (Government) is the supreme executive and managing body of the State authority. It is accountable for its activities to the Sejm. The Council of Ministers exercises internal and foreign policy of the Republic of Poland and manages the government administration. It draws up the draft State budget. The Council of Ministers issues regulations implementing acts adopted by the Parliament. It concludes international agreements requiring ratification, ensures internal and external security and manages the State defence.

46. The activities of supreme State authorities are supervised by: the Constitutional Tribunal (which rules on the conformity of laws and other legal acts with the Constitution), the State Tribunal (which rules on the culpability of high-rank State officials for violation of the Constitution and the law), the Supreme Audit Office (which supervises the economic, financial and organisational-administrative activities of government administration bodies and enterprises subordinate thereto with regard to their legality, proper management, purposefulness and reliability) and the Human Rights Defender, the Commissioner for Children's Rights and the Commissioner for Patients' Rights.

## C. Judicial authority

47. The structure and organization of the judiciary in Poland is regulated in the Constitution and in the Act of 27 July 2001 on the organisation of common courts. Pursuant to the Constitution and the *trias politica* principle, the courts and tribunals are an element of the power system separate and independent of the two other powers. The courts and tribunals pass judgements in the name of the Republic of Poland.

48. The administration of justice in Poland is implemented by the Supreme Court, common courts, administrative courts and military courts. Common courts administer justice in all matters save those statutorily reserved for other courts, thereby playing an important role in the protection of human rights and freedoms guaranteed by the State.

49. Pursuant to Article 176 of the Constitution, court proceedings shall have at least two stages, which means that each judgment issued in first instance proceedings can be appealed against and referred for consideration by a higher level body. This is the so-called ordinary appeal procedure. Additionally, there are also extraordinary appeal procedures that allow for supervision over valid judgments in court proceedings (appeal of cassation and re-opening of trial in criminal proceedings, as well as re-opening hearing in civil proceedings; appeal of cassation in civil proceedings).

50. A judge is appointed for an indefinite period by the President of the Republic on the motion of the National Council of the Judiciary. Prerequisites of appointment are: Polish citizenship, enjoying all civil and political rights, an unimpeachable reputation, a university degree in Law, a passed examination for judge or public prosecutor, employment as associate judge or prosecutor for at least three years or employment as court clerk for five years, and a minimum age of 29. Within the exercise of their office, judges are independent, being solely subject to the Constitution and legislation. Additionally, a judge may not belong to a political party, a trade union, or engage in public activities incompatible with the principles of independent courts and judges. In accordance with the Constitution and the Act on the organisation of common courts, a judge may not be removed from office. Recall of a judge from office, suspension from office, assignment to another position against his/her will may only be carried out by virtue of a court judgement and only in cases stipulated by the said Act. A judge retires in principle at the age of 67 (unless he/she expresses the will to continue to perform his/her duties, but not longer than until the age of 70). A judge may be retired due to illness or infirmity of a kind that prevents him/her from discharging his/her duties. A judge may neither be held criminally responsible nor deprived of liberty without prior consent of a disciplinary court. Likewise, he/she may not be either detained or arrested except when apprehended in the commission of an offence and when detention is necessary to ensure the proper course of proceedings. The President of the relevant local court must be notified forthwith of any such detention, and she/he may order an immediate release of the judge. The exact procedures applying to those situations are laid down in the Act on the organisation of common courts.

51. The independence of courts and judges is guaranteed by the Constitution (Chapter VIII) and safeguarded by the National Council of the Judiciary, a collective body vested with the right to submit to the Constitutional Tribunal questions of the constitutionality of normative acts that bear on the independence of courts and judges.

52. Article 182 of the Constitution provides for yet another fundamental principle: participation of citizens in the administration of justice. Accordingly, trials in common law courts are heard in the presence of lay assessors; exceptions to this rule are specified by statute.

### 1. Common courts

53. Cases not reserved to the competence of other courts are heard before district courts. Appeals against judgements rendered by district courts are examined by provincial courts, which also hear in the first instance cases reserved for them by legislation. Courts of appeal examine appeals against judgments rendered by provincial courts of first instance. The Act of 6 June 1997 — Code of Criminal Procedure and the Act of 17 November 1964 — Code of Civil Procedure also provide for extraordinary measures of appeal.

### 2. Military courts

54. Military courts administer justice in penal cases against members of the Armed Forces of the Republic of Poland and certain civilians who either work for the army or have participated in committing crimes specified by statute. The procedures of the military courts are laid down in the Act of 21 August 1997 on the organisation of military courts.

### 3. The Supreme Court

55. Pursuant to Article 183 of the Constitution, the Supreme Court is the highest judicial authority. It supervises common courts and military courts in their adjudication. In line with the Act of 23 November 2002 on the Supreme Court, its competences cover:

- Administration of justice:
  - Ensuring, under supervision, compliance of the common and military courts judgements with the law and their uniformity by examining cassation and other measures of appeal;
  - Passing rulings designed to resolve legal issues;
  - Resolving other issues specified by statute;
- Examination of objections filed in the course of election proceedings and ascertaining the validity of general elections, presidential elections, elections to the European Parliament and national referenda;
- Pronouncing opinions on draft acts and other normative acts on the basis of which the courts function and give judgments, as well as other acts in the scope it considers relevant;
- Performing other activities specified by statute.

### 4. Administrative courts

56. On 4 January 2004, by the Act of 25 July 2002 on the organisation of administrative courts (Dz. U. No. 153, item 1269, as amended) and the Act of 30 August 2002 on administrative court proceedings (Dz. U. of 2012, item 270, as amended), the two-instance principle of proceedings in administrative courts was introduced. Pursuant to the new provisions, the voivodeship administrative courts adjudicate in the first instance and the Supreme Administrative Court is the court of second instance (appellative court).

57. Administrative courts administer justice by supervision of the activities of public administration and resolving competence disputes between public administration bodies. This supervision refers to the compliance with law unless otherwise stipulated by statute.

58. Administrative courts can adjudicate in cases of complaints about administrative decisions in individual cases and other decisions of the public authorities, ordinances (normative acts) issued by local government bodies and decisions of such bodies concerning public affairs, inaction of administrative authorities.

59. The judicial review of administrative decisions in individual cases generally covers disputable issues between a citizen and an administrative body which issued a decision depriving the citizen of his/her right or imposing on him/her a specific legal obligation. Such cases are examined by a body placed outside the government administration within the organisational structure of the state. Administrative courts issue their judgements independently and can examine cases or render judgments on an unbiased basis, in accordance with the rule of law.

### 5. The Constitutional Tribunal

60. The Constitutional Tribunal is a body of the judiciary empowered to examine the constitutionality of normative acts and of international agreements; the conformity of legislative acts to those international agreements whose ratification requires prior consent granted by statute; and the conformity of normative acts issued by central State bodies with the Constitution, ratified international agreements and legislation. Furthermore, the Constitutional Tribunal passes judgments in cases of complaints submitted by individual persons concerning unconstitutionality of normative acts; the conformity of objectives and activities of political parties with the Constitution; questions asked by courts about the conformity of normative acts with the Constitution if the resolution of a case heard before a given court depends on the Tribunal's decision; and other issues stipulated by the Act of 1 August 1997 on the Constitutional Tribunal.

### 6. The Tribunal of State

61. The Tribunal of State passes judgements on the accountability of persons holding the highest positions in the State for violations of the Constitution or binding laws committed by them within their office or within its scope (Articles 198–201 of the Constitution). The Tribunal's procedures of operation are detailed in the Act of 26 March 1982 on the State Tribunal.

### 7. Prosecutors

62. Pursuant to the Constitution (Article 175), the prosecution authorities are not a part of the judicature. Relevant provisions on prosecutors are laid down by the Act of 20 June 1985 on the prosecution authorities. The Act defines the prosecution authority as a body whose task is to protect the law and order and to supervise the prosecution of crimes.

63. The Prosecution comprises the General Prosecutor's Office as the supreme authority as well as lower-level common law and military organisational units of the prosecution and the Institute of National Remembrance — Chief Commission for the Prosecution of Crimes against the Polish Nation (Nazi and communist crimes, war crimes, crimes against peace and humanity). The Institute for National Remembrance supervises also lustration procedures. The Prosecutor General is appointed by the President of the Republic of Poland for a six-year term and is selected from among candidates proposed by the National Council of the Judiciary and the National Council of Prosecutors. The Prosecutor General can be recalled by the Sejm with the majority of at least two thirds of votes exclusively in extraordinary conditions specified by the Act. Organisational units of the prosecution authority are the General Prosecutor's Office and appellate, regional and district prosecution offices.

64. During court proceedings a prosecutor is independent of other state authorities and is accountable only to his/her superiors. Despite the hierarchical structure, prosecutors are autonomous in performing their duties according to rules defined by the Act.

65. Prosecutors are appointed by the Prosecutor General upon request of the National Council of Prosecutors. To become a prosecutor, a candidate must meet the statutory requirements parallel to those applicable to judges. Prosecutors can be recalled only in few extraordinary cases stipulated by the Act.

# V. Framework within which human rights are protected

66. In 1989 reforms began aimed at transforming the country that used to belong to the Eastern Bloc into a democratic state ruled by law. At that time the basic institutions of democratic order were created. The democratic opposition rooted in the "Solidarity" trade union won the 1989 election and took part in the formation of the government. The operation of political parties, free trade unions and non-governmental organisations was legalised. This boosted social confidence in the system of government, increased social participation in governance and consequently facilitated indispensable transformation of the economy. The major institutions governing social life changed, which meant a qualitative change in people's everyday experience in their roles as citizens, employees and consumers. For ordinary people, these changes were often difficult, as the economic transformation led to a recession and mass unemployment.

67. At the beginning of the last decade, important political institutions were established (free elections and media, independent political parties and non-governmental organisations, free trade unions). The new political system brought about legal and political mechanisms regulating social participation and affecting the level and forms of social activity. A shift also took place from the emphasis on the promotion of human rights to their actual protection.

68. Currently, the Republic of Poland is a democratic state ruled by law implementing the principles of social justice, where the supreme power is vested in the Nation which exercises this power directly or through its representatives.

## A. The Constitution and the status of international agreements in Polish law

69. The Polish Constitution of 2 April 1997 protects fundamental human and civil rights. Chapter II, entitled "The Freedoms, Rights and Obligations of Persons and Citizens", enumerates the individual, political, economic, social and cultural freedoms and rights and specifies measures needed for their protection. The Constitution guarantees human rights such as freedom to hold and participate in peaceful assemblies, freedom of association and right of involvement in public affairs and right to submit petitions, proposals and complaints to public authorities. The Constitution also guarantees economic, social and cultural rights and freedoms, namely: the right of ownership, freedom to choose and pursue one's occupation, freedom to choose one's place of work, the right to safe and healthy conditions of work, to social security, health care, education, the right of the family to have its good taken into account by the State in its social and economic policy, protection of the rights of the child, freedom of artistic creation, ecological security, policies conducive to satisfying the housing needs of citizens, the protection of consumers, customers, hirers or lessees.

70. Article 37 of the Constitution stipulates that anyone being under the Polish State enjoys the freedoms and rights guaranteed by the Constitution, and any exceptions to this rule must be specified by statute. Some exemptions are listed in the Act of 12 December 2013 on aliens, which lays down the rules and conditions of entry into, transit through, residence in and exit from the territory of the Republic of Poland and in the Act of 14 July 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members which specifies the rules and conditions of entry into, residence in and exit from this territory of nationals of EU Member States, nationals of the non-EU European Economic Area States and the nationals of the Swiss Confederation as well as their family members who join them. Other such exemptions are enumerated in the Act of 13 June 2003 on granting protection to aliens

within the territory of the Republic of Poland which lays down the rules, conditions and procedures for granting protection to aliens in the territory of the Republic of Poland, and taking into account the nature of such protection. Moreover, the Act of 24 March 1920 on the acquisition of real estate by foreigners requires foreigners to obtain permission from the Ministry of Interior, whereas the Act of 20 April 2004 on promoting employment and labour market institutions imposes on foreigners, in certain cases, the obligation to obtain a work permit from the highest government representative at the regional level.

71. Chapter III of the Constitution specifies the following sources of law: the Constitution, acts, ratified international agreements and ordinances. The provisions of the Constitution shall apply directly, unless the Constitution provides otherwise. All normative acts must be consistent with the Constitution.

72. Pursuant to Article 91 of the Constitution, after publication thereof in the Journal of Laws (*Dziennik Ustaw*), international agreements ratified by the Republic of Poland constitute part of the domestic legal order and can be applied directly, unless their application depends on the enactment of an act. An international agreement ratified upon prior consent granted by an act shall have precedence over the act if such an agreement cannot be reconciled with the provisions of such acts. Ratification of an international agreement, as well as renunciation thereof, requires prior consent granted by an act if such an agreement concerns: freedoms, rights and obligations of citizens; peace, alliances, political or military treaties, the membership of the Republic of Poland of an international organisation, considerable financial responsibilities imposed on the State; matters regulated by an act or those in respect of which the Constitution requires the form of an act.

## B. Means for the protection of rights and freedoms

73. The Polish legal system has developed a variety of instruments to protect human rights and freedoms deriving from the Constitution. These include:

- Compensation to anyone harmed by public authority's activity in breach of law;
- The principle that acts cannot bar the recourse by any person to the courts in pursuit of claims alleging infringement of freedoms or rights;
- The right to appeal against judgements and decisions issued by courts of first instance using the means laid down by law (Codes of Criminal Procedure, Civil Procedure or Administrative Procedure);
- The right of persons whose constitutional freedoms or rights have been violated to lodge a complaint with the Constitutional Tribunal to rule on the conformity with the Constitution of normative acts upon which a court or public authority has made a final judgement on their constitutional freedoms, rights or obligations;
- The right to apply to the Human Rights Defender for assistance in the protection of freedoms or rights infringed by public authorities;
- Specifying matters regulated by an act or in respect of which the Constitution requires the form of an act.

74. In accordance with the European Convention on Human Rights, to which Poland is also a party, any person whose rights have been violated may appeal to the European Court of Human Rights in Strasbourg. As a party to the Optional Protocol to the International Covenant on Civil and Political Rights, Poland also acknowledges the competence of the UN Human Rights Committee to receive and examine individual complaints; the same also applies to the UN Committee against Torture, UN Committee on the Elimination of Racial

Discrimination and the UN Committee on the Elimination of Discrimination against Women.

75. Due to numerous measures undertaken by the Polish authorities in order to adapt the domestic justice system to the standards of the European Court of Human Rights' jurisprudence in recent years there was a profound drop in the number of the Court's judgments against Poland. In 2013 there were 23 judgments (in 8 judgments the Court found no violation of the Convention). This corresponded to an almost 70% decrease in the number of judgments compared to 2011 and 2012 where, respectively, 72 and 74 judgments had been adopted by the Court in respect of Poland (with 16 non-violation judgments in both 2011 and 2012). A similar decreasing tendency may be observed as regards the numbers of applications lodged against Poland and communicated to the Government (the number of applications lodged went down from 6,305 2011 to 5031 in 2013; while the number of applications communicated decreased from 246 in 2011 to 154 in 2013). It indicates the domestic courts' and other authorities' growing tendency to better apply the standards of human rights protection stemming from the ECHR's case-law and to fully respect the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms.

## I. Means of protection in civil law

76. Guarantees for the protection of personal interests (personal rights) are provided for in the Act of 23 April 1964 — Civil Code. In case of violation of a personal interest, the victim has the right to demand the removal of its consequences, in particular through appropriate public statement and pecuniary compensation. If a material damage has been inflicted, such a person may also claim damages in accordance with general principles of law.

77. Article 77 of the Constitution gives everyone the right to compensation for any damage caused by any unlawful action of public authority. The State Treasury is responsible for damages inflicted by actions of public officials (both civil servants and managers of state-owned enterprises) or persons acting under their orders, and also actions of elected officials, judges, public prosecutors and members of the Armed Forces.

78. Following a judgement passed by the Constitutional Tribunal, the accountability of the State Treasury for the damage inflicted by a public official is not conditional upon proving guilt of that official in criminal or disciplinary proceedings. The Tribunal held that a citizen has the right to compensation for any damage suffered as a result of an unlawful action of public authority, regardless of whether the immediate perpetrator of the damage will be found guilty. The Tribunal also stated non-compliance of the previous regulations with the provisions of Article 77 of the Constitution.

79. In 2004, an amendment to the Civil Code entered into force providing for more effective means to seek compensation for the damage suffered as a result of an unlawful action of public authorities. The changes refer to damages inflicted through the adoption of a normative act, through a decision or ruling of a court or nonfeasance of public authorities as regards issuing a decision, ruling or normative act (accountability for the damage is dependent on a prior statement of the unlawful character of such actions or nonfeasance). Furthermore, in a situation when public authority acted in accordance with the law and nevertheless damage was inflicted upon a person, the injured person might still claim full or partial redress and pecuniary compensation for the inflicted damage, when circumstances, especially incapacity to work or a difficult financial situation, indicate that this is required by the equity principle. Further compensation guarantees are provided by the Act of 7 July 2005 on state compensation for victims of certain crimes.

### 2. Protection under penal law

80. The Act of June 6, 1997 — Penal Code, which entered into force in 1998, provides for the prosecution of a number of offences consisting in the violation of fundamental rights and freedoms, such as genocide, murder, rape, physical injury, torture, use of threats or violence (including those due to national, ethnic, racial, political or religious differences), unlawful deprivation of liberty, limiting a person's freedom of religion, etc.

81. The Penal Code explicitly defines the conditions for the prosecution of criminals and the related penalties to be imposed, with due regard for humanitarian principles and respect for human dignity. The Code abolished the death penalty, following a legal moratorium to execute this penalty that existed since 1995 (*de facto* the punishment has not been meted out since 1988). Life imprisonment is the most severe punishment for perpetrators of the gravest offences. Pursuant to the Code of Criminal Procedure, it is also prohibited to extradite a person to a foreign country if reasonable grounds exist to expect that in the country requesting extradition the person could be sentenced to the death penalty or the death sentence could be meted out, or that the person may be subjected to torture.

82. The Penal Code penalises to a greater extent various forms of abuse of persons deprived of their liberty. For example, it stipulates that a public official who resorts to violence, unlawful threat or otherwise physically or mentally abuses a person in order to obtain testimony will be subject to prosecution. The adoption of this provision is a fulfilment of an obligation derived from the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment concerning the penalisation of acts of torture.

83. The Code of Criminal Procedure includes all guarantees that suspects (the accused) are entitled to in accordance with international standards, including the following:

- The right of detainees to immediately contact a lawyer and file a complaint with a court concerning any form of detention;
- Determination of the maximum period of pre-trial detention and the recognition of the exclusive competence of the court to order this preventive measure;
- The right to apply to the court for review of orders for the use of other preventive measures;
- The principle that the testimony or statements are not acceptable as evidence where they have been obtained in breach of the ban on influencing the persons interviewed by coercion or unlawful threat or otherwise given in circumstances excluding freedom of speech.

84. The Act of 6 June 1997 — Executive Penal Code emphasises in particular the rights and obligations of convicts and provides adequate legal guarantees. These guarantees involve granting convicts the right to:

- File complaints to the competent court against decisions regarding the execution of penalty on the grounds of legality;
- Submit complaints to the relevant domestic and international institutions responsible for the protection of human rights;
- Avail themselves of the advice of the counsel throughout the duration of penalty.

## C. Human Rights Defender

85. The Human Rights Defender Office was established in 1987. According to the Constitution and the Act of 15 July 1987 on the Human Rights Defender, the Human Rights

Defender is independent of any other State body and is appointed by the Sejm, with the consent of the Senate, for a five-year term. The Human Rights Defender defends human and civil rights and freedoms as set forth in the Constitution and other laws. All persons subject to the Polish law, both Polish citizens and foreigners, and stateless persons, have the right to apply to the Human Rights Defender for assistance in the execution of their rights and freedoms which have been violated by public authorities.

86. Motions submitted to the Human Rights Defender are free of charge and do not have to comply with any specific form.

87. The Human Rights Defender may, among other things:

- Approach agencies, organisations and institutions whose activities violated human rights or civil rights or liberties, with a motion presenting their opinions and conclusions on how to solve the problem and demand disciplinary action be instituted or official sanctions applied;
- Approach relevant agencies with proposals concerning legislative initiatives or the issuance or amendment of any legal acts regarding civil rights and liberties;
- Apply to the Constitutional Tribunal to examine the constitutionality of normative acts;
- Request the prosecutor's office to institute preparatory proceedings in cases involving offences prosecuted *ex officio*, demand that administrative or civil proceedings be initiated, and participate in such proceedings;
- File a cassation appeal with the Supreme Court against a legally binding judgement, which terminates legal proceedings; Address the issues submitted by the Ombudsman for Children;
- Cooperate with NGOs and civil society institutions on the issues of promoting human rights and freedoms.

88. The Human Rights Defender submits annual reports to the Sejm and the Senate on its activities and the status of observance of human rights, civil rights and liberties. This report is then published.

89. Poland ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2005; the Human Rights Defender is responsible for the implementation of the tasks of the National Preventive Mechanism in Poland. This role was assigned to it in January 2008. The Human Rights Defender submits annual reports on its activities to the Parliament. Task forces of the National Preventive Mechanism of the Human Rights Defender shall carry out (also unannounced) visits to detention facilities. After each such visit a report is prepared containing such information as the description of irregularities identified and recommendations for removing breaches of law (in the form of changes to existing regulations or eliminating loopholes and issuing recommendations for specific situations, such as standards in a given prison). Such recommendations are then forwarded to the authorised bodies. The National Preventive Mechanism has not identified any cases indicating that torture is used in Poland.

90. Under the 2010 Act on Equal Treatment, for the purpose of implementing the European Union directives, the Human Rights Defender was also entrusted with performing the tasks related to the implementation of the principle of equal treatment to the Polish legal system. The new law amended the existing act and imposed on the Human Rights Defender new competences, in addition to its broad mandate. These include:

- Analysis, monitoring and support of equal treatment of all individuals;

- Independent studies on discrimination;
- Drafting and publishing independent reports and making recommendations regarding discrimination-related issues;
- Performing additional information-related obligations towards the parliament which consist in providing annual information on the Defender's activity in the area of equal treatment and its results, as well as the information about the observance of the principle of equal treatment, and the conclusions and recommendations on actions to be taken in order to ensure that the principle of equal treatment is observed.

91. Moreover, since 2012 the Human Rights Defender has been holding the function of the independent mechanisms to promote, protect and monitor the implementation of the Convention on the Rights of Persons with Disabilities (under article 33, paragraph 2, of that Convention).

## D. Ombudsman for Children

92. The Office of the Ombudsman for Children was established under the Act of 6 January 2000 on the Ombudsman for Children. It is independent from other State agencies and is accountable only to the Parliament based on separate legal provisions. Its budget is independent of the Government control. The Ombudsman for Children is appointed by the Sejm (the lower chamber of the Polish parliament) with the consent of the Senate (the upper chamber of the Polish parliament) for a five-year term. The Ombudsman may be re-elected once only. When the term of office expires, the Ombudsman for Children is guaranteed the return to the previously held position.

93. The Ombudsman for Children cannot be held criminally responsible nor deprived of liberty without prior consent of the Sejm. Pursuant to the Polish Constitution, the position of Ombudsman is not compatible with any other position, except for the position of professor of higher education; the Ombudsman may not perform any other professional activities, belong to a political party or pursue any other public activity which cannot be reconciled with the dignity of his office.

94. According to article 3, paragraph 5, of the said Act, a statutory obligation of the Ombudsman for Children is promotion of the rights of the child and ways to protect them. Initiatives undertaken by the Ombudsman for Children serve to strengthen and preserve the knowledge about the rights of the child among children themselves as well as adults.

95. The Ombudsman for Children shall also safeguard the rights of children as set forth in the Polish Constitution, the Convention on the Rights of the Child and other laws. The most important initiatives of the Ombudsman for Children are:

- Popularization of the rights of the child during meetings with children;
- Promotion of the rights of the child through activities and awareness-raising campaigns, such as the Year of Janusz Korczak (which focused on the idea of the subjectivity of the child, reminding that children have inalienable right to respect and to be treated with dignity) or the "React. It's Your Right" campaign which main goal is to change the adult's passive attitudes towards the acts of violence against children and decrease the level of social acceptance for violence against children.

96. The Ombudsman for Children also takes action on his own initiative to the extent specified in applicable legislation taking into account the received information suggesting that there has been a violation of the rights or best interests of the child. The Ombudsman does not replace the specialised services, institutions or organisations involved in the protection of children, but intervenes in situations where previously applied procedures

have failed or have been rejected. The Ombudsman investigates, even without prior notice, all cases; requests clarification or information from the authorities, organisations and public institutions, as well as access to records and documents, including those that contain personal data; participates in the proceedings before the Constitutional Tribunal; submits motions to the Supreme Court to rule on the differences in the interpretation of legal provisions on the rights of the child; submits cassation appeals against legally binding judgements; demands civil proceedings to be instituted and participates in the ongoing proceedings; demands initiating proceedings in criminal matters by a competent prosecutor; requires administrative proceedings to be instituted; submits complaints to the administrative court; participates in proceedings; files proposals for the imposition of penalties in proceedings on infringement; orders tests, expert opinions and evidence; submits proposals to the authorised authorities or public institutions to initiate appropriate action for the benefit of the child within their competence; presents the competent authorities or public institutions with assessments and proposals designed to ensure the effective protection of the rights and interests of the child in order to address important issues and files proposals to adopt or amend legal provisions. The Ombudsman does not have legislative initiative and must submit proposals through competent authorities.

97. The Ombudsman for Children is required to submit annual reports to the Sejm and the Senate on its activities and provide information on the situation of the rights of the child in Poland. Since this information is subsequently published, this is a great opportunity to organise a national debate on the observance of the rights of the child in Poland.

## E. Commissioner for Patient's Rights

98. The Commissioner for Patient's Rights is a government institution. Each citizen has the right to apply to the Commissioner for free assistance in the protection of their rights. The Commissioner may also initiate an investigation on the basis of information confirming the violation of the rights of the patient. A patient may submit an appeal against a medical opinion or diagnosis to the Medical Council of the Commissioner for Patient's Rights if such an opinion or diagnosis affects the rights or obligations of the patient. The Council is obliged to immediately issue a decision on any matter, not later than within 30 days of the appeal. The Commissioner for Patient's Rights also employs the Commissioner for Rights of Psychiatric Hospitals Patients whose mission is to protect the rights of patients receiving health care in psychiatric hospitals.

## F. International conventions on human rights

99. The Republic of Poland is a party to major international agreements on human rights concluded under the United Nations as well as to European agreements.

100. The agreements ratified by Poland include the following:

| *Conventions on human rights, date of signature* | *Date of entry into force* | *Date of entry into force for Poland* |
|---|---|---|
| **Main international human rights conventions and protocols** | | |
| International Covenant on Economic, Social and Cultural Rights, 16 Dec 1966 | 03-01-1976 | 18-06-1977 |
| International Covenant on Civil and Political Rights, 16 Dec 1966 | 23-03-1976 | 18-06-1977 |

| *Conventions on human rights, date of signature* | *Date of entry into force* | *Date of entry into force for Poland* |
|---|---|---|
| International Convention on the Elimination of All Forms of Racial Discrimination, 21 Dec 1965 | 04-01-1969 | 04-01-1969 |
| Convention on the Elimination of All Forms of Discrimination against Women, 18 Dec 1979 | 03-09-1981 | 03-09-1981 |
| Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 Dec 1984 | 26-06-1987 | 25-08-1989 |
| Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 18 Dec 2002 | 22-06-2006 | 22-06-2006 |
| Convention on the Rights of the Child, 20 Nov 1989 | 02-09-1990 | 07-07-1991 |
| Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 25 May 2000 | 12-02-2002 | 07-05-2005 |
| Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 25 May 2000 | 18-01-2002 | 04-03-2005 |
| Optional Protocol to the International Covenant on Civil and Political Rights, 16 Dec 1966 | 23-03-1976 | 07-02-1992 |
| Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 15 Dec 1989 | 11-07-1991 | 25-07-2014 |
| Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women concerning individual complaints and inquiry procedures, 6 Oct 1999 | 22-12-2000 | 22-03-2004 |
| Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 18 Dec 2002 | 22-06-2006 | 12-12-2007 |
| Convention on the Rights of Persons with Disabilities, 13 Dec 2006 | 03-05-2008 | 25-09-2012 |
| Poland, as a member of the European Union, is also bound by the Charter of Fundamental Rights of the European Union, which entered into force on 1 Dec 2009 | | |
| **Other United Nations human rights and related conventions** | | |
| Convention on the Prevention and Punishment of the Crime of Genocide, 9 Dec 1948 | 12-01-1951 | 12-01-1951 |
| Convention on the Political Rights of Women, 31 March 1953 | 07-07-1954 | 11-11-1954 |
| Slavery Convention of 1926 as amended, 7 Sept 1956 | 30-04-1957 | 10-01-1963 |
| Convention relating to the Status of Refugees, 28 Jul 1951 | 22-04-1954 | 26-12-1991 |
| Protocol relating to the Status of Refugees, 31 Jan 1967 | 04-10-1967 | 27-09-1991 |
| Convention on the Non-Applicability of Statutory Limitations | 11-11-1970 | 11-11-1970 |

| *Conventions on human rights, date of signature* | *Date of entry into force* | *Date of entry into force for Poland* |
|---|---|---|
| to War Crimes and Crimes against Humanity, 26 Nov 1968 | | |
| International Convention on the Suppression and Punishment of the Crime of Apartheid, 30 Nov 1973 | 18-07-1976 | 18-07-1976 |
| International Convention against Apartheid in Sports, 10 Dec 1985 | 03-04-1988 | 03-04-1988 |
| Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 6 Oct 1999 | 22-12-2000 | 22-03-2004 |
| Rome Statute of the International Criminal Court, 17 Jul 1998 | 01-07-2002 | 01-07-2002 |
| United Nations Convention against Transnational Organized Crime, 15 Nov 2000 | 29-09-2003 | 29-09-2003 |
| Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 15 Nov 2000 | 28-01-2004 | 28-01-2004 |
| Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 15 Nov 2000 | 25-12-2003 | 25-12-2003 |
| **Conventions of the International Labour Organization (abstract)** | | |
| Convention concerning Forced or Compulsory Labour (No. 29), 28 Jun 1930 | 01-05-1932 | 30-07-1959 |
| Convention concerning Labour Inspection in Industry and Commerce (No. 81), 11 Jul 1947 | 07-04-1950 | 02-06-1996 |
| Convention concerning Freedom of Association and Protection of the Right to Organise (No. 87), 9 Jul 1948 | 04-07-1950 | 25-02-1958 |
| Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (No. 98), 1 Jul 1949 | 18-07-1951 | 25-02-1958 |
| Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (No. 100), 29 Jun 1951 | 23-05-1953 | 25-10-1955 |
| Convention concerning the Abolition of Forced Labour (No. 105), 25 Jun 1957 | 17-01-1959 | 30-07-1959 |
| Convention concerning Discrimination in Respect of Employment and Occupation (No. 111), 25 Jun 1958 | 15-06-1960 | 30-05-1962 |
| Convention concerning Employment Policy (No. 122), 9 Jul 1964 | 15-07-1966 | 24-11-1967 |
| Convention concerning Labour Inspection in Agriculture (No. 129), 25 Jun 1969 | 19-01-1972 | 02-06-1996 |
| Convention concerning Minimum Age for Admission to Employment (No. 138), 26 Jun 1973 | 19-06-1976 | 25-02-1981 |

| *Conventions on human rights, date of signature* | *Date of entry into force* | *Date of entry into force for Poland* |
|---|---|---|
| Convention concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service (No. 151), 27 Jun 1978 | 25-02-1981 | 26-07-1983 |
| Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182), 17 Jun 1999 | 19-11-2000 | 09-08-2003 |
| **Conventions of the United Nations Educational, Scientific and Cultural Organization** | | |
| Convention against Discrimination in Education, 14 Dec 1960 | 22-05-1962 | 15-12-1964 |
| **Conventions of the Hague Conference on Private International Law** | | |
| Convention concerning the powers of authorities and the law applicable in respect of the protection of infants, 5 Oct 1961 | 04-02-1969 | 25-07-1993 |
| Convention on the Law Applicable to Maintenance Obligations, 2 Oct 1973 | 01-10-1977 | 01-05-1996 |
| Convention on the Recognition of Divorces and Legal Separations, 1 Jun 1970 | 24-08-1975 | 24-06-1996 |
| Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations, 2 Oct 1973 | 01-08-1976 | 01-07-1996 |
| Convention on the Civil Aspects of International Child Abduction, 25 Oct 1980 | 01-12-1983 | 01-11-1992 |
| Convention on International Access to Justice, 25 Oct 1980 | 01-05-1988 | 01-11-1992 |
| Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 29 May 1993 | 01-05-1993 | 01-10-1995 |
| **International multilateral agreements concerning international humanitarian law** | | |
| Convention relative to the Opening of Hostilities, 18 Oct 1907 | 26-01-1910 | 08-07-1925 |
| Convention on respecting the Laws and Customs of War on Land, 18 Oct 1907 | 26-01-1910 | 09-07-1925 |
| Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 Aug 1949 | 21-10-1950 | 26-05-1955 |
| Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 12 Aug 1949 | 21-10-1950 | 26-05-1955 |
| Geneva Convention (III) relative to the Treatment of Prisoners of War, 12 Aug 1949 | 21-10-1950 | 26-05-1955 |
| Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 Aug 1949 | 21-10-1950 | 26-05-1955 |
| Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, 5 Aug 1963 | 10-10-1963 | 14-10-1963 |

| *Conventions on human rights, date of signature* | *Date of entry into force* | *Date of entry into force for Poland* |
|---|---|---|
| Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, 10 Apr 1972 | 26-03-1975 | 26-03-1975 |
| Convention on the Prohibition of Military or Any Hostile Use of Environmental Modification Techniques, 10 Dec 1976 | 05-10-1978 | 05-10-1978 |
| Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 Jun 1977 | 07-12-1978 | 23-04-1992 |
| Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 Jun 1977 | 07-12-1978 | 23-04-1992 |
| Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, 10 Oct 1980 | 02-12-1983 | 02-12-1983 |
| Additional Protocol to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Protocol IV entitled Protocol on Blinding Laser Weapons), 10 Oct 1980 | 30- 07-1998 | 23-05-2005 |
| Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II as amended on 3 May 1996) to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, 10 Oct 1980 | 03-12-1998 | 14-04-2004 |
| Amendment of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, 10 Oct 1980 | 18-05-2004 | 15-03-2007 |
| Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, 13 Jan 1993 | 29-04-1997 | 29-04-1997 |
| Additional Protocol to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, 13 Oct 1995 | 30-07-1998 | 23-03-2005 |
| Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 18 Sep 1997 | 1-03-1999 | 27-12-2012 |
| Amendment of Article 1 of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, with annexes | 10-10-1980 | 2008 |

| *Conventions on human rights, date of signature* | *Date of entry into force* | *Date of entry into force for Poland* |
|---|---|---|
| Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III) | 08-12-2005 | 26-04-2010 |
| Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Protocol V) signed in Geneva on 28 November 2003 | 28-11-2003 | 26-03-2012 |
| **Treaties of the Council of Europe** | | |
| Convention for the Protection of Human Rights and Fundamental Freedoms /005/, 4 Nov 1950 | 03-09-1953 | 19-01-1993 |
| Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms /009/, 20 Mar 1952 | 18-05-1954 | 10-10-1994 |
| Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms /44/, 6 May 1963 | 21-09-1970 | 19-01-1993 |
| Protocol No. 3 to the Convention for the Protection of Human Rights and Fundamental Freedoms /045/, 6 May 1963 | 21-09-1970 | 19-01-1993 |
| Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms /46/, 16 Sept 1963 | 02-05-1968 | 10-10-1994 |
| Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental Freedoms /055/, 20 Jan 1966 | 20-12-1971 | 19-01-1993 |
| Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty /114/, 28 Apr 1983 | 01-03-1985 | 01-11-2000 |
| Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms /117/, 22 Nov 1984 | 01-11-1988 | 01-03-2003 |
| Protocol No. 8 to the Convention for the Protection of Human Rights and Fundamental Freedoms /118/, 19 Mar 1985 | 01-01-1990 | 19-01-1993 |
| Protocol No. 9 to the Convention for the Protection of Human Rights and Fundamental Freedoms /140/, 6 Nov 1990 | 01-10-1994 | 01-02-1995 |
| Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms /155/, 11 May 1994 | 01-11-1998 | 01-11-1998 |
| Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances, 3 May 2002 | 01-07-2003 | 01-09-2014 |
| Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention, 13 May 2004 | 01-06-2010 | 01-06-2010 |
| European Social Charter /35/, 18 Oct 1961 | 26-02-1965 | 25-07-1997 |

| *Conventions on human rights, date of signature* | *Date of entry into force* | *Date of entry into force for Poland* |
|---|---|---|
| European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment /126/, 26 Nov 1987 | 01-02-1989 | 01-02-1995 |
| Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment /151/, 4 Nov 1993 | 01-03-2002 | 01-03-2002 |
| Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment /152/, 4 Nov 1993 | 01-03-2002 | 01-03-2002 |
| European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights /161/, 5 March 1996 | 01-01-1999 | 01-02-2013 |
| Framework Convention for the Protection of National Minorities /157/, 1 Feb 1995 | 01-01-1999 | 01-04-2001 |
| Council of Europe Convention on Action against Trafficking in Human Beings | 16-05-2005 | 01-03-2009 |

# VI. Human rights under the Polish Constitution

101. The personal rights and freedoms are listed mainly in Chapter II of the Constitution and follow closely regulations adopted in the European Convention on Human Rights and the International Covenant on Civil and Political Rights. Furthermore, Poland has eagerly supported the creation, within the institutional framework of the European Union, of a body responsible for monitoring the observance of human rights in the process of incorporation of *acquis communautaire* by Member States. Since the establishment of the European Union Agency for Fundamental Rights, Poland has been actively participating in its work.

## A. General principles

### 1. Human dignity

102. Article 30 of the Constitution defines human dignity as the source of an entire catalogue of rights and freedoms. Human dignity is considered inviolable, and public authorities are obliged to respect and protect it. The obligation to respect human dignity and observe human rights is described in detail in specific normative acts, such as the acts on the Police and the Border Guard.

### 2. Obligation to respect personal freedoms

103. Article 31 of the Constitution ensures that personal freedoms are duly respected: since personal freedoms are legally protected, no one may be compelled to do what is not required by law. Any limitation upon the exercise of constitutional freedoms and rights may be imposed only by statute and when necessary in a democratic state for the protection of its security or public order, or to protect the natural environment, public health or morals, or the freedoms and rights of others. Such limitations shall not violate the essence of freedoms and rights.

### 3. Equality before the law

104. The principle of equality before the law, the right to equal treatment by public authorities and non-discrimination in political, social and economic life is defined in Article 32 of the Constitution. Further provisions ensure equal treatment of men and women in family, political, social and economic life, as well as equal rights to education, employment and promotion, equal pay for work of similar value, to social security, to hold public offices and to receive public honours and decorations.

### 4. The right to citizenship

105. Pursuant to Article 34 of the Constitution, Polish citizenship is acquired by birth to parents who are citizens of Poland. Other methods of acquiring Polish citizenship (by repatriates, foreigners and stateless persons) are determined by the Act of 2 April 2009 on Polish citizenship (Dz. U. of 2012, No. 28, item 161, as amended). A Polish citizen may not lose Polish citizenship except by renunciation thereof.

### 5. The rights and freedoms of national and ethnic minorities

106. Article 35 of the Constitution ensures Polish citizens belonging to national and ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions, and to develop their own culture. National and ethnic minorities have the right to establish their own educational and cultural institutions and institutions designed to protect religious identity, as well as to participate in the resolution of matters connected with their cultural identity. Poland is a party to the International Convention on the Elimination of All Forms of Racial Discrimination and the Council of Europe Framework Convention on the Protection of National Minorities. Poland has also signed bilateral treaties of friendship and good neighbourly relations with Lithuania, Belarus, Ukraine, Germany, the Czech Republic, the Russian Federation and Slovakia, which oblige the signatories to protect the rights of ethnic minorities.

107. In 2005, the Act of 6 January 2005 on National and Ethnic Minorities and Regional Language (Dz. U. No. 17, item 141, as amended) entered into force. One of the most important issues addressed in the Act is the right to preserve the language of national minorities, in particular the issue of minority languages as supplementary languages in contacts with public administration.

108. In order to strengthen political rights of national minorities, the Act of 5 January 2011 — Election Code (Dz. U. No. 21, item 112, as amended), which regulates elections to the Sejm and the Senate, states that the 5-8% electoral threshold (i.e. the minimum required threshold of votes for parties and election committees is 5%, and the threshold for coalition parties, 8%) does not apply to candidates on the lists submitted by registered national minorities, provided that the person concerned will submit an appropriate statement.

### 6. The rights of churches and religious organisations

109. Equal rights are ensured to all churches and other religious organisations and so is the impartiality of State in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life, thus ensuring their freedom of expression in public life (Article 25 of the Constitution). The relationship between the State and churches and other religious organisations is based on the principle of respect for their autonomy and the mutual independence of each in its own sphere. Relations between the State and the Roman Catholic Church are governed by the Concordat, i.e. the international agreement between the Republic of Poland and the Holy See, and the Act on the relation of the State to the Catholic Church in the Republic of Poland. Relations between the Republic of Poland

and other churches and religious organisations are determined by the Acts adopted pursuant to agreements concluded by the Council of Ministers with their respective representatives.

## B. Personal freedoms and rights

### 1. Protection of human life

110. The Polish Constitution contains a set of guaranteed personal freedoms and rights, including the fundamental human right to the protection of life. The Penal Code does not provide for the death penalty. In 2014 Poland became a Party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances.

111. Murder is one of the most serious crimes and is severely punished. Euthanasia is also prohibited and punishable by up to 5 years of imprisonment (although in exceptional circumstances, the court may renounce imposing a penalty).

112. Furthermore, according to the Act of 7 January 1993 on family planning, human foetus protection and conditions of permissible abortion, abortion is permitted in the Republic of Poland in three specific circumstances, namely:

- If pregnancy poses a risk to the life or health of the pregnant woman;
- If prenatal tests or other medical reasons indicate a high likelihood of severe and irreversible foetal impairment or untreatable disease threatening its life;
- If it may be reasonably suspected that the pregnancy is a result of crime.

113. Under the penal law, illegal abortion is punishable by up to three years of imprisonment, but a pregnant woman who had an abortion would not be punished. In accordance with Article 153 of the Penal Code, whoever, through the use of force against a pregnant woman or by other means, without her consent terminates the pregnancy or induces her by force, an illegal threat or deceit to terminate pregnancy shall be subject to the penalty of deprivation of liberty for a term of between 6 months and 8 years. Whoever commits the act specified in § 1, after the foetus has become capable of living independently outside the body of the pregnant woman, shall be subject to the penalty of deprivation of liberty for a term of between one year and 10 years.

### 2. Prohibition of scientific experiments on humans

114. In accordance with Article 39 of the Constitution, no one can be subjected to scientific experimentation without their explicit consent. The consent must be granted voluntarily. The conditions for conducting scientific experiments are set out in the Act of 5 December 1996 on the professions of physician and dentist. The Penal Code prohibits cognitive experimentation on people protected by international humanitarian law even with their consent. The Penal Code reiterates the constitutional obligation of obtaining the consent of a participant to a scientific experiment, after duly informing them of the expected benefits as well as negative consequences and the probability of their occurrence and instructing them of the option of withdrawing from the experiment at any stage.

### 3. Prohibition of torture

115. Article 40 of the Constitution prohibits torture or cruel, inhuman or degrading treatment or punishment, as well as corporal punishment.

**The criminalisation of torture in the Republic of Poland**

116. All acts that may amount to torture are criminalised under the Penal Code and punishable by appropriate penalties which take into account their grave nature. In order to reflect the full gravity of instances of torture the relevant criminal provisions are to be applied cumulatively, thus the perpetrator shall be sentenced on the basis of all concurrent provisions (i.e. infliction of bodily harm, abuse of power by a public official, extortion of a testimony and abuse). Such a flexible approach is part of the tradition of Polish criminal law and proved itself to work well in practice.

117. Furthermore, since 1 August 2010, the Family and Guardianship Code expressly prohibits the use of corporal punishment by parents. The Polish system of penal law contains a number of regulations to ensure the prosecution of acts of torture. In addition, it is legally punishable to use unlawful threats or violence in order to exert pressure on a suspect or witness to obtain evidence or testimony. A catalogue of legal measures designed to prevent acts of inhumane treatment has also been created, including supervision of prisons by penitentiary judges or the Human Rights Defender.

118. On 13 June 2003, the Act on granting protection to aliens within the territory of the Republic of Poland was adopted. The Act introduced a new form of protection, namely a permit for tolerated stay. The permit refers to the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The permit for tolerated stay may be granted to an alien whose expulsion may be effected only to a country where their right to life, freedom and personal safety would be at risk, where the alien would be subjected to torture or inhumane or degrading treatment or punishment, or could be forced to work or deprived of the right to a fair trial, or could be punished without any legal grounds.

## 4. The right to personal inviolability

119. The Constitution upholds the right to personal inviolability and freedom. Pursuant to Article 41(1), any deprivation or limitation of liberty may be imposed only on the principles and under procedures stipulated by statute. The respective regulations are set out in such acts as the Code of Criminal Procedure, the Act on Aliens and the Act of 5 December 2008 on infectious diseases.

120. Paragraph 2 of the same Article states that anyone deprived of liberty shall have the right to appeal to the court to immediately determine the lawfulness of such deprivation. Any deprivation of liberty shall be immediately communicated to the family of or the person designated by the person deprived of liberty. Among other personal rights and freedoms, the Constitution lists the right of a detainee to be informed, immediately and in a manner comprehensible to them, of the reasons for detention. Within 48 hours of detention the detainee must be given over to a court for consideration of the case. The detainee must be released unless a warrant of temporary arrest issued by a court, along with specification of the charges laid, has been served on him/her within 24 hours of being submitted to the court's disposal. In other words, the Constitution gives the court 24 hours to issue an arrest warrant. Only the court can decide about temporary detention. Additionally, the Constitution grants the right to compensation for anyone deprived of liberty in violation of the law. According to the Code of Criminal Procedure, complaints over detention may not only question the validity and legality of such detention and demand immediate release, but may also be related to the improper application of this measure.

121. Another provision, which is important for the protection of personal freedoms, is the one that guarantees the right of a detained person to immediately contact and meet a lawyer, as well to uncensored contact with human rights protection bodies, including UN

treaty bodies and the European Court of Human Rights. In the case of foreigners, the detainee must be allowed to contact the relevant consulate or diplomatic mission.

### 5. The right to a fair trial

122. Article 42 of the Constitution provides for the rules *nullum crimen sine lege*, the presumption of innocence and the right of defence. According to the Constitution and the Penal Code, only a person who has committed an act prohibited by an act in force at the time of its commission, shall be held criminally responsible. The principle of the presumption of innocence, according to which the accused shall be presumed innocent until proven guilty by a final and binding judgement of the court, was reflected in the Code of Criminal Procedure, which provides that any irresolvable doubt must be interpreted in favour of the accused. Anyone against whom criminal proceedings have been brought has the right to defence at all stages of the proceedings. In particular, they may choose a counsel or use the services of a public defender under the terms stipulated by statute, if there is evidence that the accused cannot afford to employ a counsel. The court appoints a public defender for accused who are minors, deaf, dumb or blind, or if there are justified reasons to believe that the accused may be insane. In addition, if the court finds that the circumstances threaten effective defence, legal representation is mandatory.

123. Pursuant to the Constitution and the Penal Code, war crimes and crimes against humanity do not fall under the statute of limitations. Furthermore, in accordance with the Act of 18 December 1998 on the Institute of National Remembrance — Commission for the Prosecution of Crimes against the Polish Nation, Nazi and Communist crimes against peace and humanity and war crimes as well as other crimes against peace and humanity and war crimes do not fall under the statute of limitations. Furthermore, Article 44 of the Constitution states that the statute of limitations regarding offences committed by or by order of public officials and which have not been prosecuted for political reasons, shall be suspended until such causes cease to exist.

124. In accordance with Article 45 of the Constitution, everyone has the right to a fair and public hearing of his case without undue delay before a competent, impartial and independent court. The principle of independence of the judiciary is further safeguarded by the Constitution: Article 173 says that courts and tribunals constitute a separate authority and are independent of other branches of authority and that judges holding offices are independent and subject only to the Constitution and acts. A fair and public trial is guaranteed by the principle saying that court proceedings shall have at least two stages (Article 176 of the Constitution) and by the right to lodge constitutional complaints to the Constitutional Tribunal about the compliance with the provisions of the Constitution and other normative acts that have served the court or other authority to issue a final judgement on the freedoms, rights and obligations set out in the Constitution. The public nature of hearings may be suspended or restricted by statute only in cases specified in the Constitution (Article 45 (2)), for reasons of morality, State security, public order or protection of the private life of a party or other important private interest. However, judgements shall be announced publicly.

125. When it comes to the principle that court proceedings must be held without undue delay, the Code of Criminal Procedure states that one of the objectives of criminal proceedings is to issue a judgement within a reasonable time. As stated in the Code of Civil Procedure, the court ought to counteract any protraction of proceedings and should seek to judge the case during the first sitting as long as it is not detrimental to the examination of the case. Similar provisions apply to proceedings before the administrative courts. In 2004, the Act of 17 June 2004 on a complaint against violation of a party's right to have a case examined without undue delay in court proceedings conducted or supervised by the prosecutor entered into force. The Act introduces important legal remedies the parties can

resort to in the case of court or the prosecutor delays. The law also defines the rules and procedures for hearing complaints filed by a party whose right to have its case heard without undue delay has been violated as a result of action or failure to act on the part of the court or the prosecutor.

### 6. The right to privacy

126. Further constitutional norms include the right to legal protection of private and family life, the privacy of communication, the right to inviolability of the home, the right to protection of honour and good reputation and the right to make decisions about one's personal life (Articles 47, 49, 50 and 51 of the Constitution).

127. The provisions of the Civil Code guarantee the protection of such personal interests as health, freedom, honour, freedom of conviction, name or pseudonym, one's likeness, privacy of communication, inviolability of the home, as well as scientific, artistic, inventive and innovative activity. A person is entitled to demand that any unlawful infringement of a personal interest be discontinued, the consequences of such action be made good for, as well as demand financial compensation and indemnity for any damages to property. The freedom and privacy of communication (Article 49 of the Constitution) are further protected by penal provisions which provides for sanctions for unlawful infringement, concealment or damage of correspondence, for tapping a communication line and for passing on the information obtained in this way. Those rights can only be restricted by law, as specified in the Penal Code, the Acts on the Police, the Internal Security Agency, intelligence agencies, the Border Guard and the Penal Executive Code.

128. The inviolability of the home is guaranteed by Article 50 of the Constitution. Any search of a home, premises or vehicles may be made only in cases and in the manner specified by statute. The inviolability of the home is also protected by the Penal Code which penalises infringements of domestic peace.

129. The right of citizens not to disclose personal data and the resulting ban on obtaining, collecting and accessing information other than the information necessary in a democratic state ruled by law, as well as the right to restrict access to information about them, and the right to demand that false, incomplete or unlawfully obtained information be corrected or deleted (Article 51 of the Constitution) are laid down in considerable detail in the Act of 29 August 1997 on the protection of personal data. State authorities are authorised to collect and store certain types of data on citizens on the basis of the Acts on the Border Guard, the Internal Security Agency and the Police.

### 7. Freedom of speech

130. Article 54 of the Constitution grants everyone the freedom to express opinions, to acquire and disseminate information, while prohibiting preventive censorship of the mass media and licensing of the press. The licensing of radio and television stations is regulated in the Broadcasting Act of 29 December 1992. This latter Act and the Act of 26 January 1984 — Press Law (Dz. U. 1984, No. 5, item 24, as amended) proclaim the principle of freedom of the media.

### 8. The right to raise children in the family

131. The right of parents to raise their children in conformity with their own convictions, with due respect for the degree of maturity of a child and his/her freedom of conscience, religion and convictions is guaranteed by Article 48 of the Constitution. Pursuant to Article 53(3), parents have the right to ensure that their children are raised and educated in terms of morals and religion in accordance with their beliefs. This issue is further addressed by the Act of 25 February 1964 — Family and Guardianship Code, which states that

parents must exercise their parental authority over a child in the child's best interest and in the interest of society. Parental rights may be restricted or suspended only in cases specified by the act: parental rights may be suspended when the exercise of parental authority is infringed by temporary obstacles; complete withdrawal of parental authority may ensue when parents abuse their authority or grossly neglect their duties towards the child. Pursuant to the Penal Code, for an offence committed against a minor, or in cooperation with a minor, the court shall notify the competent family court whenever it considers that deprivation or restriction of parental or guardianship rights is necessary.

### 9. Freedom of movement

132. The principle of freedom of movement within the territory of the Republic of Poland and the choice of place of residence and stay in Poland as well as the freedom to leave the country is set out in Article 52 of the Constitution. These freedoms may be subject to limitations only in cases specified by statute.

133. In the light of Article 55 of the Constitution, the extradition of Polish citizens is prohibited except in the following cases. The extradition of a Polish citizen may be exercised upon request of a foreign state or an international judicial body, if such a possibility stems from an international agreement ratified by the Republic of Poland or an Act implementing a legal instrument enacted by an international organisation of which the Republic of Poland is a member, provided that the act covered by the request for extradition:

(1) Was committed outside the territory of the Republic of Poland; and

(2) Constituted an offence under the law of the Republic of Poland or would have constituted an offence under the law of the Republic of Poland if it had been committed in the territory of the Republic of Poland, both at the time of its commitment and at the time of submitting the motion.

134. However, compliance with the above conditions is not required if an extradition request is made by an international judicial body established under an international agreement ratified by the Republic of Poland, in connection with a crime of genocide, crime against humanity, war crime or a crime of aggression, covered by the jurisdiction of that body.

### 10. Freedom of conscience and religion

135. Another fundamental right guaranteed by the Constitution (Article 53) is the freedom of conscience and religion, which includes the freedom to profess or to accept a religion by personal choice as well as to manifest such religion, either individually or collectively, publicly or privately, by worshipping, praying, participating in ceremonies, performing of rites and teaching. The religion of a church or other legally recognised religious organisation may be taught in schools, but freedom of conscience and religion of other people shall not be infringed thereby. It is also concluded that no one may be compelled to participate or not participate in religious practices, nor to disclose one's philosophy of life, religious conviction or belief. The principles laid out in the above Article are also reflected in the Act of 17 May 1989 on the guarantee of freedom of conscience and religion (Dz. U. of 2005 No. 231, item 1965, as amended), the Act of 7 September 1991 on the educational system and the Ordinance of the Minister of Education on the conditions and method of teaching religion in public schools.

## C. Political freedoms and rights

### 1. Freedom of assembly

136. Freedom of assembly, which consists in the freedom of peaceful assembly and participation in such assemblies, is provided for in Article 57 of the Constitution. Detailed rules for the organisation of such meetings can be found in the Act of 5 July 1990 – Law on Assemblies, (Dz. U. of 2013, item 397), which also determines, in accordance with the Constitution, the exceptional restrictions that may be imposed in the interest of national security, public order and the protection of public health or morals or the rights and freedoms of other people.

### 2. Freedom of association

137. Freedom of association constitutes another constitutional principle. Relevant standards are defined in Articles 58 and 59, but they should be considered within the framework set out in Articles 11 and 12. These provisions ensure freedom of establishment and operation of political parties, trade unions, socio-occupational organisations of farmers, associations, citizens' movements and other voluntary associations and foundations. The Constitution also states that political parties shall be founded on the principles of voluntariness and equality of Polish citizens, and their purpose shall be to influence the formulation of State policy by democratic means. Article 13 of the Constitution bans political parties and other organisations whose programmes are based on totalitarian methods and practices of Nazism, fascism and communism, as well as those whose programmes or activities sanction racial and national hatred, the use of violence for the purpose of obtaining power or to influence the State policy, or provide for the secrecy of their own structure or membership.

138. While the freedom of association is guaranteed to everyone, associations whose purposes or activities are contrary to the Constitution or the Act are prohibited. Any further restrictions may only be imposed by statute in the interests of State security, public order and the protection of public health or morals or the rights and freedoms of other people. The court may refuse to register or may ban an association. The freedom of association in trade unions, socio-occupational organisations of farmers and employers' organisations is further elaborated on in acts regulating trade unions, socio-occupational organisations of farmers and employers' organisations.

139. In parallel, the Constitution guarantees the right to collective bargaining and the right of workers to organise strikes and other forms of protest.

### 3. The right to get involved in public affairs and to submit petitions, requests and complaints to public authorities

140. The right to engage in public affairs constitutes another group of freedoms, including the right to participate in elections and referenda, the right to stand for election, the right of access to public service (on equal terms for all Polish citizens), and the right to obtain information about the activities of public authorities and public institutions. Article 61 of the Constitution gives every citizen the right to obtain information on the activities of public authorities and persons discharging public functions, the activities of self-governing economic or professional bodies as well as other persons or organisational units selected by election. The right to obtain information shall ensure access to documents and entry to sittings of collective organs of public authority formed by universal elections, with the possibility of audio or video recording. According to the Act — Press law, the said authorities are obliged to inform the media about their activities.

141. Polish citizens also have the right to submit petitions, proposals and complaints in the public interest and interests of their own to the public authorities and social organisations and institutions. The procedures for considering petitions, proposals and complaints are determined by the Act of 14 June 1960 — Code of Administrative Procedure (Dz. U. of 2013, item 267).

## D. Economic, social and cultural freedoms and rights

### 1. The right to ownership

142. Another fundamental law inscribed in the Constitution is the right to ownership, other property rights and the right of succession. Everyone shall receive equal legal protection regarding ownership, other property rights and the right of succession. Ownership may only be limited by statute.

### 2. Freedom to choose and pursue one's occupation

143. In addition to the freedom to pursue the selected occupation, Article 65 provides also for the freedom to choose a profession and place of work and states that an obligation to work may be imposed only by statute. Such an obligation is provided for in the Penal Code which states that a person sentenced to the penalty of restriction of liberty may be required by the court to take up a specific job for a specified period and in accordance with the Act of 18 April 2002 on the state of natural disaster (Dz. U. No. 62, item 558, as amended). In the same Article, the Constitution prohibits the permanent employment of children under the age of 16 and provides that the types and nature of admissible employment shall be specified by statute. The specific conditions for the employment of minors are defined in the Act of 26 June 1974 — Labour Code and relevant Ordinances of the Minister of Labour. To facilitate the implementation of the citizens' rights in the field of employment, the Constitution provides for the ways and means of reducing unemployment. The detailed measures to this end are laid down in the Act on promoting employment and labour market institutions.

### 3. The right to decent working conditions

144. The right to safe and healthy working conditions, days off work specified in the Act, paid holidays and maximum permissible working hours are inscribed in Article 66 of the Constitution. The Labour Code stipulates that one of the primary responsibilities of the employer and the employee is to comply with the occupational health and safety rules and principles. Detailed rules governing safety and health at work are set out in Section X of the Labour Code (Health and safety at work), under which the employer is responsible for compliance with prescribed standards and where the respective rights and obligations of employees are specified. The Penal Code provides for criminal responsibility for serious violations of work safety and health standards. The provisions on working hours and paid leave are set out in Sections VI and VII of the Labour Code.

### 4. Access to social security

145. Article 67 of the Constitution guarantees the right to social security in situations when an employee is unable to work or is unemployed involuntarily. The detailed regulations are contained in such legal acts as the Act of 13 October 1998 on the social security system, the Act on promoting employment and labour market institutions and others.

146. Failure to provide the required data, even with the consent of the party concerned, as well as the provision of false information affecting the right to social benefits constitutes a punishable violation of the law on social security in the light of the Penal Code.

### 5. The right to health care

147. The right to health care (health protection) is guaranteed in Article 68 of the Constitution, which also explains the principle of equal access of Polish citizens to health care services financed from public funds. Under the same Article, public authorities are obliged to ensure special health care to children, pregnant women, people with disabilities and the elderly. The Act of 27 August 2004 on health care benefits financed from public funds specifies in detail the scope and conditions of medical procedures, as well as the rules and procedures of public funding (under the Act, women in pregnancy, labour and the postnatal period and children under 18 in Poland are entitled to free access to health services and special legal protection).

### 6. The right to education

148. Another right guaranteed by the Constitution (Article 70) is the right to education. Under this Article, education is offered in public schools without payment, access to education is universal and equal, there is a choice between public and non-public schools, and educational institutions are entitled to public funding. Detailed provisions on education are laid down in the Act of 7 September 1991 on the educational system and in the Act of 27 July 2005 — Law on Higher Education, which guarantees the autonomy of universities.

### 7. Protection of the family

149. Under Articles 71 and 72 of the Constitution, the State is obliged to extend legal protection to the family and the child, as well as provide assistance to mothers before and after childbirth. The Act on family planning, human foetus protection and conditions of permissible abortion, as well as the Act on social assistance and the relevant executive regulations define the mode and form of assistance provided to pregnant women. Since 1 August 2010, the use of corporal punishment has been banned.

150. With regard to the rights of the child, the Polish legislation recognises the best interest of the child as a determining factor in all decisions (court judgements) concerning the child.

151. The Act of June 9, 2011 on family support and foster care system introduced a system of service and care support over a child and family if the family has problems with fulfilling its functions. According to the Act, placing a child in foster care is an ultimate measure and can be applied only if other means of helping family in crisis have been exhausted.

### 8. Disabled persons

152. The Constitution imposes on public authorities an obligation to ensure special health care to disabled persons (Article 68 para. 3) and to assist them to ensure their subsistence, adaptation to work and communication (Article 69). Constitutional guarantees are reflected in the laws concerning various areas of life, particularly in the Act of August 27, 1997 on vocational and social rehabilitation and employment of disabled persons, as well as in other specific provisions and programs that take into account the principles of social inclusion and equalization of opportunities for disabled persons and create conditions for solving their problems, increasing their activity (social and professional) and independence as well for meeting special needs resulting from disability.

## VII. Promotion and teaching of human rights in Poland

153. Human rights receive a lot of attention in Poland, both in terms of promotion and teaching. Several higher education institutions offer regular courses in human rights. Issues related to human rights are also included in the core curriculum of general education at all levels of education. Content on international and national regulations on human rights, including the rights of the child, the student and the disabled, is also present in the standards of teacher education. Training and education programmes for the Police and the Border Guard also comprise issues of human rights related to these professions. Many publications on this subject also appear regularly.

154. Decisions of the Human Rights Committee and judgements of the European Court of Human Rights are translated into Polish and are published in professional journals and the general press. Much information on human rights protection, including the most important international (universal and regional) legal instruments, standards of international jurisprudence and detailed description of the relevant control and complaint mechanisms, may be also found on the Ministry of Justice's website. The site is frequently updated and expanded. In March 2014 an agreement between the Ministry of Justice, the Foreign Ministry, the Constitutional Court and the Supreme Administrative Court was signed according to which the parties will cooperate in the translation and dissemination of the ECHR's judgments issued not only in respect of Poland but also third countries.

155. The Ministry of Justice organises training sessions for judges and prosecutors, whereas the Supreme Court, the Constitutional Court and the Supreme Administrative Court, the Ombudsman and the Ministry of Foreign Affairs hold seminars on human rights. Intensive training is provided by the Supreme Bar Council and "Iustitia", an association of judges. Human rights issues are also part of the curriculum for lawyers and legal advisers. Non-governmental organisations, including the Helsinki Foundation for Human Rights, Women's Rights Center, La Strada and Amnesty International, also are active in the field of human rights.